

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

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SIGALIT YEHUDA,

Plaintiff,

v.

JOSSEF KAHLON

Defendant/Counterclaim Plaintiff,

v.

AVRAHAM YEHUDA,

Counterclaim Defendant.
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: 21-cv-08921 (MMG)

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: **ORDER**
: (Proposed)

MARGARET GARNETT, United States District Judge.

Plaintiff and Counterclaim Defendant, on May 13, 2025, filed a motion (see Dkt. Nos. 133-135) for an order: (i) pursuant to 18 U.S.C. 401, Federal Rule of Civil Procedure 37 (b)(2)(A), spoliation of evidence, and this Court's inherent power, prohibiting Defendant from presenting evidence on the issue of unequal distributions for the years 2008 through 2011 and deeming that issue to be established in accordance with Plaintiff's claims for the purposes of this action and prohibiting Defendant from presenting evidence on Plaintiff's remaining claims; (ii) pursuant to Federal Rule of Civil Procedure 37, and dismissing Defendant's counterclaims for his failure to prosecute the matter and participate in discovery in good faith; (iii) pursuant to Federal Rule of Civil Procedure 37 (b), 18 U.S.C. 401 and this Court's inherent power to manage its affairs, awarding to Plaintiff, and directing Defendant and his counsel jointly and severally to pay Plaintiff, her reasonable expenses, including attorneys' fees, caused by Defendant's discovery and other misconduct; and, (iv) awarding Plaintiff such other and further relief as the Court may deem just

and proper.

Counterclaim Defendant joined in the Motion, seeking judgment on the pleadings dismissing the Second, Fifth and Eighth Counterclaims asserted in Defendant's Answer, pursuant to Federal Rule of Civil Procedure 12(c).

Defendant has not responded to the Motion, despite a month having passed from the date the Court's motion scheduling order allowed him to do so. Thus, the Court considers the Motion unopposed.

As the Court finds the Motion is meritorious and Plaintiff and Counterclaim Defendant are entitled to the relief requested by the Motion, it is hereby

ORDERED that, pursuant to 18 U.S.C. 401 and Fed. R. Civ. P. 37 (b)(2), Plaintiff's claim that Defendant took for himself and misappropriated her distributions from their company TJ Management LLC for the years 2008 through 2011 are deemed established in the amount of Seven Million, Seven Hundred, Thousand (\$7,700,000) Dollars; and it is further

ORDERED that, pursuant to 18 U.S.C. 401 and Fed. R. Civ. P. 37 (b)(2), Defendant is prohibited at trial from presenting evidence on the issues of (i) Plaintiff's entitlement to one half of TJ Management LLC's trading capital balances in its bank accounts in 2011, when Defendant alleges it closed those accounts and, (ii) the source of the \$10 million dollar payment for the Texas real estate and what happened to it; and, it is further

ORDERED that, pursuant to Fed. R. Civ. P. 12(c), Defendant's "second", "fifth" and "eighth" counterclaims are dismissed as a matter of law and on the merits; and, it is further

ORDERED that, pursuant to Fed. R. Civ. P. 37 (b) and the Court's broad powers and discretion to impose sanctions for discovery misconduct, all of Defendant's counterclaims are dismissed on the merits; and it is further

ORDERED that, pursuant to Fed. R. Civ. P. 37 (b)(2)(C) and (a)(4)(A) and the Court's broad powers and discretion to impose sanctions for discovery misconduct, Plaintiff is directed, within thirty (30) days of entry of this Order, to pay Plaintiff's attorneys' fees in the amount of \$40,527.00 plus expenses of \$ 5,044.35, representing the reasonable value of necessary legal services and expenses of her counsel in prosecuting Defendant's contempt and discovery defaults.

SO ORDERED.

Dated: __ July 2025
 New York, New York

Margaret Garnett
U.S.D.J.